THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6977 of 1999

Dated: 21-06-2007

Between:

Korepella Savitramma.

..... PETITIONER

AND

The District Collector, Kakinada, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6977 of 1999

ORDER:

The petitioner is allegedly owner of land admeasuring Acs.7.23 in survey No.26 situated at Konalova Village, Addateegala Mandal, East Godavari District. In 1945, the Special Assistant Agent, Peddapuram, initiated action for ejectment of the persons who are in possession of the land in survey Nos.7, 8, 26 and 78/5. An order was passed on 16.10.1945 for ejectment of all the persons in possession of land in survey No.26. The petitioner alleges that the Special Assistant Agent, however, dropped the proceedings insofar as the land in possession of the petitioner is concerned. Smt. Pathara Savitramma, fourth respondent herein,

filed an application, being LTRP No.164 of 1976 before the Special Assistant Agent, Peddapuram, for ejectment of the petitioner and restoration of the land, which was allowed on 10.11.1976. Against the same, the petitioner preferred C.M.A.No.9 of 1978 before the Agent to the Government. The same was allowed on 19.05.1980 and the matter was remanded to the original authority, whereafter the case was renumbered as LTRP No.173 of 1980, which was dismissed on 03.02.1983. Against the same, fourth respondent herein filed an appeal, being C.M.A.No.4 of 1987, before the Agent to the Government. Alleging that she being affected, the petitioner filed W.P.No.18305 of 1988 and the same was allowed by the Division Bench of this Court and the matter was remanded to the Agent to the Government for fresh disposal. Thereafter, C.M.A.No.4 of 1987 was heard by the Agent to the Government and by order dated 20.10.1998, the appeal was allowed and the Mandal Revenue Officer, Addateegala, was directed to evict the non-tribal i.e., petitioner herein and deliver possession to the legal heir of deceased Sanyasamma i.e., fourth respondent herein. At the time when the matter was before the Agent to the Government, the respondent died. However, feeling aggrieved by the order dated 20.10.1998, the petitioner filed instant writ petition. Curiously the dead person, namely, Sanyasamma is shown as fourth respondent herein, mentioning in the parenthesis that "no legal representative". Therefore, virtually the *lis* is between the petitioner and respondents 1 and 2.

The learned counsel for the petitioner submits that the land was purchased prior to coming into force of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959, for brevity) and therefore, Regulation No.I of 1959 has no application. According to the learned counsel, the original authority and the appellate authority erred in coming to the conclusion that the land is subject to Regulation No.I of 1959. He also points out that the issue between the petitioner and others was settled in 1945. The Special Assistant Agent to the Government held in favour of the petitioner and the petitioner or her predecessors have been in possession of the land for more than seven decades. The learned Assistant Government Pleader for Social Welfare submits that when the matter was pending before second respondent, the petitioner therein gave a statement/deposition wherein he admitted that subject land was purchased by his wife i.e., the petitioner herein under registered sale deed dated 10.06.1970. According to the learned Government Pleader, this would clinchingly show that the sale transaction is in contravention of Section 3(2)(a) of Regulation No.I of 1959. He has also invited the attention of this Court to the brief history of the sale transactions in respect of subject land from 1924 onwards.

The point for consideration is whether respondents 1 and 2 were correct in coming to the conclusion that the land in possession of the petitioner comprised in survey No.26 is governed by the provisions of Regulation No.I of 1959.

Dealing with the history of various transactions between/among non-tribals in respect of the land, para 4 of the counter-affidavit reads as under.

> It is submitted that the Special Assistant Agent, Peddapuram passed orders in L.T.R.P.No.3/44, dt.16.10.1945 stating that the land (in S.No.26) cannot be restored to the petitioner as the same was alienated by mortgage on 25.04.1924. But in L.T.R.P.No.173/80, it has been brought to the notice of the lower court by the husband of the writ petitioner who deposed on behalf of his wife, that his wife purchased the petition scheduled land from Sri Pasala Ramulu @ Ramaswamy of Vella village of Ramachandrapuram Taluk as per Registered sale deed dt.10.06.1970, that this land was purchased by Sri Pasala Ramulu from Sri Katta Ramarao and other of Jagapathinagaram as per Sale deed dt.29.07.1965 that on 25.04.1958. Nalla Appala Swamy sold the land to the Katta Rama Rao as per sale deed dt.25.04.1958, that Donepudi Kondaiah of Konalova Village purchased the land from Adimulam Ramaswamy as per sale deed dt.23.06.1936, that Adimulam Appalaswamy purchased the petition scheduled land from Pathr Veeramma by a sale deed dt.20.09.1929, that Pathara Veeramma mortgaged the petition scheduled land to Adimulam Appalaswamy under registered mortgage deed dt.25.04.1924. Thus the transfer of immovable property in this case was between two non-tribals took place in June, 1970 as admitted by writ petitioner's husband in the lower court (LTRP

173/80).

The counter-affidavit was obviously prepared based on the record which was available only to show that first respondent has conducted a detailed enquiry in coming to the conclusion that second respondent committed an error holding in favour of the petitioner. First respondent was right in setting aside the order of second respondent who obviously ignored the registered sale deed under which the petitioner purchased as deposed by the husband of the petitioner.

In the result, for the above reasons, the writ petition is devoid of merits and the same is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

21st June, 2007
ghn